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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Emerick, et al. : Date: November 12, 2007
Serial No.: 09/865,371 : Group Art Unit: 2643
Filed: May 25, 2001 : Confirmation No.: 6848
For: **METHOD AND APPARATUS
UPGRADE ASSISTANCE USING
CRITICAL HISTORICAL PRODUCT
INFORMATION** : Examiner: Q. Tran

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)

1. This request for reconsideration of the patent term adjustment indicated in the Notice of Allowance mailed on November 1, 2007.
 The issue fee is being paid as set forth in the papers attached hereto.

2. Applicant submits herewith a "Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 For the Adjustment--Part B." T(37 C.F.R. § 1.705(b)(2)(i) and (ii)).

3. Any patent granted on this application (37 C.F.R. § 1.705(b)(2)(iii)):
 is not subject to a terminal disclaimer.
 is subject to a terminal disclaimer, and the expiration date specified in the terminal disclaimer is _____.

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4. As to circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in § 1.704 (37 C.F.R. § 1.705(b)(2)(iv)):

there were none (37 C.F.R. § 1.705(b)(2)(iv)(B)).

these were as follows (37 C.F.R. § 1.705 (b)(2)(iv)(A)):

Applicant filed its response to the 3/11/04 Office Action on July 7, 2004.

Applicant filed its response to the 10/28/2005 Office Action on January 30, 2006.

5. The fee set forth in § 1.18(e) (\$200.00), required by 37 C.F.R. § 1.705(b)(1), is paid as follows:

Attached is a check money order in the amount of \$_____.

Authorization is hereby made to charge the amount of \$200.00

to Deposit Account No. 09-0465

to Credit card as shown on the attached credit card information authorization form PTO-2038.

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of his paper is attached.

Date: 11/20/07

Respectfully submitted,

By 

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Attached hereto is/are:

Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 For the Adjustment." (37 C.F.R. § 1.705(b)(2)(i) and (ii)) -- Part B.

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Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702

For the Adjustment." (37 C.F.R. § 1.705(b)(2)(i) and (ii))

Applicants filed the above-identified application on 5/25/2001. The USPTO issued a first notification under 35 U.S.C. § 132 on 3/11/2004. Because this term is greater than 14 months, Applicants are entitled to a patent term adjustment of 595 days by 37 C.F.R. § 1.702(a)(1).

Applicants filed the above-identified application on 5/25/2001. The USPTO issued a Notice of Allowance on 11/01/2007, which suggests that the resulting patent will issue on 5/1/2008. Because this pendency will be greater than three years, Applicants are entitled to a patent term adjustment of 1437 days by 37 C.F.R. § 1.702(b).

In view of the delay in issuing the first notification and/or the long pendency of the above-identified Application, Applicants are entitled to a total positive term adjustment of 1437 days.